

REPRESENTATIVE FOR PETITIONERS

Chris Hiatt, President of Key Enterprises, Inc.

REPRESENTATIVE FOR RESPONDENT:

Joseph Rhetts, Brooke Stevens, P.C.

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

David G. & Jane Hiatt, Trustees /	)	Petition Nos.:	18-003-12-3-5-00872-17
Key Enterprises, Inc., ¹	)		18-003-13-3-5-00873-17
	)		18-003-14-3-5-00874-17
	)		18-003-12-3-5-00875-17
	)		18-003-13-3-5-00876-17
	)		18-003-14-3-5-00877-17
Petitioners,	)		18-003-12-3-5-00913-17
	)		18-003-13-3-5-00914-17
	)		18-003-14-3-5-00911-17
	)		18-003-15-3-5-00912-17
	)		18-003-12-3-5-00924-17
	)		18-003-13-3-5-00923-17
	)		18-003-13-3-5-00905-17
v.	)		18-003-14-3-5-00906-17
	)		18-003-15-3-5-00904-17
)		
	)	Parcel Nos.:	18-11-21-117-003.000-003
	)		18-11-21-117-008.000-003
	)		18-11-04-379-012.000-003
Delaware County Assessor,	)		18-11-04-451-017.000-003
	)		18-11-04-379-001.000-003
)		
	)	County:	Delaware
	)	Township:	Center
)		
Respondent.	)	Assessment Years:	2012, 2013, 2014, and 2015

July , 2018

¹ David G. & Jane Hiatt are listed as the Petitioners for the first six petitions. Key Enterprises, Inc., is listed as the Petitioner for the remaining nine petitions.

FINAL DETERMINATION

The Indiana Board of Tax Review (Board), having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

ISSUE

1. The Petitioners claim stipulated assessments were not correctly applied for the tax years under appeal, resulting in erroneous computations of tax liabilities, delinquencies, and penalties. Did the Petitioners make a prima facie case?

PROCEDURAL HISTORY

2. The Petitioners filed fifteen Petitions for Correction of an Error (Form 133s) for the 2012-2015 tax years with the Delaware County Auditor on November 29, 2016. The Delaware County Property Tax Assessment Board of Appeals (PTABOA) failed to act on the Petitioners' Form 133s. Thus, the Petitioner sought review with the Board. *See* Ind. Code § 6-1.1-15-1(k) and (o) (allowing a taxpayer to seek review by the Board if a county PTABOA does not hold a hearing within 180 days of the taxpayer filing its notice of review with the county or township assessor). The Petitioners filed their Form 133s with the Board on June 26, 2017.
3. On March 8, 2018, the Board's administrative law judge, Patti Kindler (ALJ), held a consolidated hearing on the petitions. Neither the Board nor the ALJ inspected the properties.
4. Chris Hiatt appeared *pro se* and was sworn as a witness.² Attorney Joseph Rhetts appeared for the Respondent.

² Mr. Hiatt signed the various petitions as President of Key Enterprises, Inc.

5. The Petitioners submitted the following exhibits:

Parcel 18-11-21-117-003.000-003 for 2012

- Petitioners Exhibit A: Petitioners' request for discovery from Assessor, Auditor and Treasurer, dated February 13, 2018,
Petitioners Exhibit B1: 2012 Joint Report by Taxpayer/Assessor to the County Board of Appeals of a Preliminary Informal Meeting—Form 134 (Form 134),
Petitioners Exhibit B2: Special Message to Property Owner (TS-1A) for taxes payable in 2013 and 2014,
Petitioners Exhibit B3: Invoice from the Petitioners' records for taxes paid on May 7, 2013,
Petitioners Exhibit B4: Petitioners' spreadsheet indicating taxes paid on November 6, 2013,
Petitioners Exhibit 1: Petitioners' summary of appeal filings,
Petitioners Exhibit 2: List of tax overpayments, delinquencies and penalties for the five parcels under appeal.

Parcel 18-11-21-117-003.000-003 for 2013

- Petitioners Exhibit A: Petitioners' request for discovery from Assessor, Auditor and Treasurer, dated February 13, 2018,
Petitioners Exhibit B1: Stipulation agreement signed December 3, 2015
Petitioners Exhibit B2: 2013 Form 134,
Petitioners Exhibit B3: TS-1A for 2014 and 2015,
Petitioners Exhibit B4: Petitioners' spreadsheet indicating taxes paid on May 7, 2014, and November 5, 2014,
Petitioners Exhibit 1: Petitioners' summary of appeal filings,
Petitioners Exhibit 2: List of tax overpayments, delinquencies and penalties for the five parcels under appeal.

Parcel 18-11-21-117-003.000-003 for 2014

- Petitioners Exhibit A: Petitioners' request for discovery from Assessor, Auditor and Treasurer, dated February 13, 2018,
Petitioners Exhibit B1: 2014 Form 134,
Petitioners Exhibit B2: TS-1A for 2014 and 2015,
Petitioners Exhibit B3: Petitioners' spreadsheet indicating taxes paid on May 7, 2015, and November 9, 2015,
Petitioners Exhibit C: Tax installment charges as of April 5, 2017,
Petitioners Exhibit D: Tax Inquiry for the "2016 payable 2017,"
Petitioners Exhibit 1: Petitioners' summary of appeal filings,

Petitioners Exhibit 2: List of tax overpayments, delinquencies and penalties for the five parcels under appeal.

Parcel 18-11-21-117-008.000-003 for 2012

Petitioners Exhibit A: Petitioners' request for discovery from Assessor, Auditor, and Treasurer, dated February 13, 2018,
Petitioners Exhibit B1: 2012 Form 134,
Petitioners Exhibit B2: TS-1A for 2012 and 2013,
Petitioners Exhibit B3: Invoice of taxes paid on May 8, 2013,
Petitioners Exhibit B4: Petitioners' spreadsheet indicating taxes paid on November 6, 2013,
Petitioners Exhibit 1: Petitioners' summary of appeal filings,
Petitioners Exhibit 2: List of tax overpayments, delinquencies and penalties for the five parcels under appeal.

Parcel 18-11-21-117-008.000-003 for 2013

Petitioners Exhibit A: Petitioners' request for discovery from Assessor, Auditor and Treasurer, dated February 13, 2018,
Petitioners Exhibit B1: 2013 Form 134,
Petitioners Exhibit B2: TS-1A for 2013 and 2014,
Petitioners Exhibit B3: Spreadsheet of taxes paid in the spring and fall of 2014,
Petitioners Exhibit 1: Petitioners' summary of appeal filings,
Petitioners Exhibit 2: List of tax overpayments, delinquencies and penalties for the five parcels under appeal.

Parcel 18-11-21-117-008.000-003 for 2014

Petitioners Exhibit A: Petitioners' request for discovery from Assessor, Auditor and Treasurer, dated February 13, 2018,
Petitioners Exhibit B1: 2014 Form 134,
Petitioners Exhibit B2: TS-1A for 2014 and 2015,
Petitioners Exhibit B3: Spreadsheet of taxes paid in the spring and fall of 2015,
Petitioners Exhibit C: Tax installment charges as of April 5, 2017,
Petitioners Exhibit D: Tax Inquiry for the "2016 payable 2017,"
Petitioners Exhibit 1: Petitioners' summary of appeal filings,
Petitioners Exhibit 2: List of tax overpayments, delinquencies and penalties for the five parcels under appeal.

Parcel 18-11-04-379-012.000-003 for 2012

Petitioners Exhibit A: Petitioner's request for discovery from Assessor, Auditor and Treasurer, dated February 13, 2018,
Petitioners Exhibit B1: 2012 Form 134,
Petitioners Exhibit B2: TS-1A for 2012 and 2013,
Petitioners Exhibit B3: Screenshot of the spring 2012 taxes as of May 8, 2013,
Petitioners Exhibit B4: Spreadsheet of fall taxes paid on November 6, 2013,
Petitioners Exhibit 1: Petitioners' summary of appeal filings,
Petitioners Exhibit 2: List of tax overpayments, delinquencies and penalties for the five parcels under appeal.

Parcel 18-11-04-379-012.000-003 for 2013

Petitioners Exhibit A: Petitioners' request for discovery from Assessor, Auditor and Treasurer, dated February 13, 2018,
Petitioners Exhibit B1: 2013 Form 134,
Petitioners Exhibit B2: TS-1A for 2013 and 2014,
Petitioners Exhibit B3: Spreadsheet of spring and fall taxes paid in 2014,
Petitioners Exhibit 1: Petitioners' summary of appeal filings,
Petitioners Exhibit 2: List of tax overpayments, delinquencies and penalties for the five parcels under appeal.

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Petitioners Exhibit B3: Spreadsheet of spring and fall taxes paid in 2015,
Petitioners Exhibit 1: Petitioners' summary of appeal filings,
Petitioners Exhibit 2: List of tax overpayments, delinquencies and penalties for the five parcels under appeal.

Parcel 18-11-04-379-012.000-003 for 2015

Petitioners Exhibit A: Petitioners' request for discovery from Assessor, Auditor and Treasurer, dated February 13, 2018,
Petitioners Exhibit B1: 2015 Form 134,
Petitioners Exhibit B2: TS-1A for 2015 and 2016,
Petitioners Exhibit B3: Spreadsheet of spring and fall taxes paid in 2016,
Petitioners Exhibit C: Tax installment charges as of April 5, 2017,
Petitioners Exhibit D: Tax inquiry for the "2016 payable 2017,"
Petitioners Exhibit 1: Petitioners' summary of appeal filings,

Petitioners Exhibit 2: List of tax overpayments, delinquencies and penalties for the five parcels under appeal.

Parcel 18-11-04-451-017.000-003 for 2012

Petitioners Exhibit A: Petitioners' request for discovery from Assessor, Auditor and Treasurer, dated February 13, 2018,
Petitioners Exhibit B1: 2012 Form 134,
Petitioners Exhibit B2: TS-1A for 2012 and 2013,
Petitioners Exhibit B3: Screenshot of taxes paid on May 8, 2013,
Petitioners Exhibit B4: Spreadsheet of fall taxes paid in 2013,
Petitioners Exhibit 1: Petitioners' summary of appeal filings,
Petitioners Exhibit 2: List of tax overpayments, delinquencies and penalties for the five parcels under appeal.

Parcel 18-11-04-451-017.000-003 for 2013

Petitioners Exhibit A: Petitioners' request for discovery from Assessor, Auditor and Treasurer, dated February 13, 2018,
Petitioners Exhibit B1: 2013 Form 134,
Petitioners Exhibit B2: TS-1A for 2013 and 2014,
Petitioners Exhibit B3: Spreadsheet of spring and fall taxes paid in 2014,
Petitioners Exhibit C: Tax installment charges as of April 5, 2017,
Petitioners Exhibit D: Tax inquiry for "2016 payable 2017,"
Petitioners Exhibit 1: Petitioners' summary of appeal filings,
Petitioners Exhibit 2: List of tax overpayments, delinquencies and penalties for the five parcels under appeal.

Parcel 18-11-04-379-001.000-003 for 2013

Petitioners Exhibit A: Petitioners' request for discovery from Assessor, Auditor and Treasurer, dated February 13, 2018,
Petitioners Exhibit B1: 2013 Form 134,
Petitioners Exhibit B2: TS-1A for 2013 and 2014,
Petitioners Exhibit B3: Spreadsheet of spring and fall taxes paid in 2014,
Petitioners Exhibit 1: Petitioners' summary of appeal filings,
Petitioners Exhibit 2: List of tax overpayments, delinquencies and penalties for the five parcels under appeal.

Parcel 18-11-04-379-001.000-003 for 2014

Petitioners Exhibit A: Petitioners' request for discovery from Assessor, Auditor and Treasurer, dated February 13, 2018,

Petitioners Exhibit B1: 2014 Form 134,
Petitioners Exhibit B2: TS-1A for 2014 and 2015,
Petitioners Exhibit B3: Spreadsheet of spring and fall taxes paid in 2015,
Petitioners Exhibit 1: Petitioners' summary of appeal filings,
Petitioners Exhibit 2: List of tax overpayments, delinquencies and penalties
for the five parcels under appeal.

Parcel 18-11-04-379-001.000-003 for 2015

Petitioners Exhibit A: Petitioners' request for discovery from Assessor,
Auditor and Treasurer, dated February 13, 2018,
Petitioners Exhibit B1: 2015 Form 134,
Petitioners Exhibit B2: TS-1A for 2015 and 2016,
Petitioners Exhibit B3: Spreadsheet of spring and fall taxes paid in 2016,
Petitioners Exhibit C: Tax installment charges as of April 5, 2017,
Petitioners Exhibit D: Tax inquiry for "2016 payable 2017,"
Petitioners Exhibit 1: Petitioners' summary of appeal filings,
Petitioners Exhibit 2: List of tax overpayments, delinquencies and penalties
for the five parcels under appeal.

6. The Respondent did not offer any exhibits.
7. The record also includes (1) all pleadings, briefs, motions, and documents filed in the current appeals, (2) all orders and notices issued by the Board or ALJ, and (3) a digital recording of the hearing.

OBJECTIONS

8. The Respondent objected to Petitioners' Exhibits A and D for each parcel under appeal on the grounds of relevancy. More specifically, Mr. Rhetts argued Petitioners' Exhibit A was "information on the issue of assessed value, which is not the issue at appeal." In response, Mr. Hiatt argued the exhibit is relevant to show he "requested for the purposes of seeing how these payments were applied." Regarding Petitioners' Exhibit D, Mr. Rhetts argued the exhibit "did not represent a current description of the upcoming property taxes." In response, Mr. Hiatt argued "as far as I know, that is the current balance due." The ALJ took the objections under advisement. Because the Respondent's

objections go more to the weight of the exhibits rather than their admissibility, the Board overrules the objections and Petitioners' Exhibits A and D are admitted.

9. The Respondent also objected to Mr. Hiatt's testimony that "within 10 days after the PTABOA hearing for parcel 18-11-21-117-008.000-003 the property was in a tax sale," arguing this testimony is irrelevant. In response, Mr. Hiatt argued he "had to defend against that and get it out of the tax sale." The ALJ deferred ruling on the objection. Again, the Respondent's objections goes to the weight of the testimony rather than its admissibility, therefore the objection is overruled and the testimony remains part of the record.
10. Finally, Mr. Hiatt objected to the "necessity" of the Respondent's request to "submit legal briefs." Mr. Hiatt argued that because the Respondent failed to present any evidence, he should not be allowed to present a brief. The ALJ overruled the objection stating both parties have the option of submitting post-hearing briefs and neither party will be prejudiced. The Board adopts the ALJ's ruling and both post-hearing briefs are officially part of the record.

PETITIONERS' CONTENTIONS

11. The five properties under appeal are located at 1427 West 15th Street, 2225 South Hoyt, 1716 North Wheeling, the 1800 block of North Wheeling, and 1904 North Wheeling, all in Muncie. *Hiatt testimony.*
12. The Petitioners appealed the 2012, 2013, and 2014 assessments of all five properties. As a result of the appeals, the Petitioners and the Assessor stipulated to lower values.³ *Hiatt testimony; Pet'rs Ex. B1; Pet'rs brief.*

³ The Petitioners only offered the first page of their Form 134s, they did not include the second page containing the parties' signatures or the date signed.

13. While their appeals were pending, the Petitioners paid taxes “in a timely manner,” and based the amounts of their payments for the 2012, 2013, and 2014 years on their 2011 tax liability. The Petitioners argued they relied on Ind. Code § 6-1.1-15-10, stating that if a petition for review to any board is pending, the taxes resulting from the assessment or increase in assessment are not due until after the petition for review, or the proceeding for judicial review, is finally adjudicated and the assessment or increase in assessment is determined. *Hiatt testimony; Pet’rs brief.*

14. After the appeals were adjudicated locally and the assessed values were determined, the total property tax liability was less than the amount the Petitioners paid based on the 2011 tax liabilities. Based on their calculations for assessment years 2012, 2013, and 2014, the Petitioners “overpaid their taxes.” Thus, the Petitioners argue they are entitled to a refund. But they contend the Delaware County Treasurer failed to properly apply their payments, and instead imposed “penalties and delinquencies.” Local officials, despite the Petitioners’ discovery request, have failed to provide any evidence of “where the money went.” *Hiatt argument; Pet’rs Ex. B1, B2, B3, B4, 2; Pet’rs brief.*

15. More specifically, beginning with the 2015-pay-2016 tax year, the tax bills began showing accruing property tax delinquencies, penalties, and “special assessment of unknown origin.” According to the Petitioners, the overpayments were as follows:

Petition number	Address	Taxes paid	Overpayment
18-003-12-3-5-00872-17	1427 W. 15 th	\$86.00	\$10.00
18-003-13-3-5-00873-17	1427 W. 15 th	\$86.00	\$10.00
18-003-14-3-5-00874-17	1427 W. 15 th	\$86.00	\$4.00
18-003-12-3-5-00875-17	2225 S. Hoyt	\$3,236.00	\$118.00
18-003-13-3-5-00876-17	2225 S. Hoyt	\$3,236.00	\$150.40
18-003-14-3-5-00877-17	2225 S. Hoyt	\$3,236.00	\$150.40
18-003-12-3-5-00913-17	1716 N. Wheeling	\$9,350.00	\$1,141.00
18-003-13-3-5-00914-17	1716 N. Wheeling	\$9,350.00	\$1,250.80
18-003-14-3-5-00911-17	1716 N. Wheeling	\$9,350.00	\$1,259.80
18-003-15-3-5-00912-17	1716 N. Wheeling	\$0.00	\$0.00
18-003-12-3-5-00924-17	1800 N. Wheeling	\$470.00	\$13.00

18-003-13-3-5-00923-17	1800 N. Wheeling	\$470.00	\$22.00
18-003-13-3-5-00905-17	1904 N. Wheeling	\$1,802.00	\$18.80
18-003-14-3-5-00906-17	1904 N. Wheeling	\$1,802.00	\$18.80
18-003-15-3-5-00904-17	1904 N. Wheeling	\$1,859.48	\$0.50

Hiatt testimony; Pet'rs Ex. B2, 2; Pet'rs brief.

16. The Petitioners filed appeals for the 2015 assessment year for the properties located at 1716 North Wheeling and 1904 North Wheeling. The April 5, 2017, tax bill for 1904 North Wheeling demonstrates that there are still delinquencies and penalties applied to this parcel “despite the fact that the Petitioners paid the taxes due and are actually owed a refund.” The April 5, 2017, tax bill for 1716 North Wheeling shows an unexplained \$158.82 credit, but the Petitioners “did not take that credit [so] it is a wash.” Both of these tax bills demonstrate the Petitioners were not properly credited for previous year’s overpayments. The Respondent failed to offer any evidence to dispute this fact. *Hiatt argument; Pet'rs Ex. C, D, 2; Pet'rs brief.*

17. While the Respondent argues the Petitioners should have requested a refund with the county, the Petitioners “initiated the effort” to correct the errors of the county officials regarding the overpayment of property taxes, penalties and special assessments by filing Form 133s. The county officials failed to act on the Form 133s. *Hiatt argument; Pet'rs Ex A; Pet'rs brief.*

RESPONDENT’S CONTENTIONS

18. The Petitioners failed to cite to any authority to support their argument that payments made in excess of the amounts due were not properly credited towards future tax liabilities. *Rhetts argument; Resp't brief.*

19. In certain cases, a credit for overpayment resulting from a determination in a review or appeal under Ind. Code § 6-1.1-15-1 is automatically applied to the next successive tax installment due in that year, with any excess automatically refunded to the taxpayer. This

occurs when a taxpayer appeals an assessed value, but “pays the amount due on the increased assessment only to have the assessed value reduced on appeal.” Here, the alleged overpayments were the result of the Petitioners’ “inexplicable” decision to pay more than was required as opposed to the amount based on the successful appeal. *Rhetts argument; Resp’t brief.*

20. When a taxpayer makes a property tax payment exceeding the actual property tax liability for a particular parcel, the county treasurer is statutorily obligated to apply the excess payment amount according to the provisions set forth in Ind. Code § 6-1.1-26-1.1. Accordingly, a county treasurer shall place the portion of a tax or special assessment payment which exceeds the amount actually due, as shown by the tax statement, in a special fund known as a “surplus tax fund.” Amounts placed in the “surplus” fund shall first be applied to the taxpayer’s delinquent taxes in the manner provided in Ind. Code § 6-1.1-23-5(b). According to Ind. Code § 6-1.1-23-5(b), the “surplus” funds are to be, (1) applied to delinquent personal property taxes owed in the county by the taxpayer, then (2) applied to delinquent real property taxes owed in the county by the taxpayer, and finally (3) applied to delinquent personal property taxes owed by the taxpayer and certified from another county. If any money is left in the “surplus” after excess payments have been made, the taxpayer is entitled to a refund of that money. *Rhett argument; Resp’t brief.*
21. In order to claim a refund, a taxpayer must adhere to the statutory refund procedures listed in Ind. Code § 6-1.1-26-1.1. The Petitioners failed to do so. The Petitioners were required to file a verified claim for money remaining in the surplus tax fund according to Ind. Code § 6-1.1-26-6(a), but Mr. Hiatt admitted he did not file a formal refund request with the auditor. *Rhett argument; Resp’t brief.*
22. The evidence presented indicates the county officials did “exactly what was statutorily required” while the Petitioners failed to do so. Regardless of this fact, whether the Petitioners are due a refund is not a matter properly before the Board because Ind. Code §

6-1.1-26-2.1(e) states that the Petitioners' recourse must be sought in the local county courts. *Rhett argument; Resp't brief.*

ANALYSIS

23. Regarding "penalties and delinquencies," the Board lacks the authority to address the Petitioners' claims.⁴ The Board is a creation of the legislature, and it has only those powers conferred by statute. *Whetzel v. Dep't of Local Gov't Fin.*, 761 N.E.2d 1093, 1096 (Ind. Tax Ct. 2002) citing *Matonovich v. State Bd. of Tax Comm'rs*, 715 N.E.2d 1018, 1021 (Ind. Tax Ct. 1999).
24. The Board is the state agency charged with deciding property tax assessment appeals. The Board addresses appeals contesting real and personal property assessments. It also addresses appeals concerning property tax exemptions, deductions, and credits. The Board, however, lacks jurisdiction to address appeals where taxpayers contest only their tax bill and not their property's assessment.
25. Indiana Code § 6-1.5-4-1 identifies the subject matter the Board is authorized to address, and provides as follows:
 - (a) The Indiana board shall conduct an impartial review of all appeals concerning:
 - (1) the assessed valuation of tangible property;
 - (2) property tax deductions;
 - (3) property tax exemptions;
 - (4) property tax credits;that are made from a determination by an assessing official or county property tax assessment board of appeals to the Indiana board under any law.

⁴ Throughout the hearing, the Petitioners referred to "penalties and delinquencies" as if both were part of the same claim. In this case, the Board finds that the two are inextricably linked. The Board can only infer that in using the term "delinquencies," the Petitioners were referring to the principal balances of overdue taxes. Additionally, in using the term "penalties," the Petitioners were referring to the additional fines attached to the delinquencies. To the extent the Petitioners intended to offer separate arguments for each term, they failed to do so. Regardless, as discussed herein, the Board lacks the authority granted in the enabling statute to review either penalties or delinquencies as they are defined here.

(b) Appeals described in this section shall be conducted under IC 6-1.1-15.

Ind. Code § 6-1.5-4-1.

26. Here, the Petitioners did not contest their assessment. Instead, they contested the taxes applied to their assessment. In *Irwin Mortgage Corp. v. Ind. Bd. of Tax Review*, the Indiana Tax Court held that Ind. Code § 6-1.5-4-1 did not give the Board authority to review penalties imposed for late payment of property taxes. *Irwin Mortgage Corp. v. Ind. Bd. of Tax Review*, 775 N.E.2d 720, 723-24 (Ind. Tax Ct. 2002); *see also Whetzel*, 761 N.E.2d at 904 (reaching the same conclusion regarding the authority of the Board’s predecessor agency, the State Board of Tax Commissioners). The tax court upheld the Board’s determination dismissing an appeal in which the taxpayer challenged the assessment of penalties against it. *Irwin Mortgage*, 755 N.E.2d at 724.
27. The Tax Court has held that the Board’s enabling statute “did not grant any power to the State Board to review penalties by the county for the late payment of property taxes,” because it contemplated only a review of assessments, deductions, exemptions, and credits.⁵ *Whetzel*, 761 N.E.2d at 904.
28. Accordingly, to the extent the Petitioners claim that local officials miscalculated and improperly applied penalties and delinquencies to their taxes, the Board lacks the authority to address that claim. Given the clear language of *Whetzel*, the Board lacks jurisdiction to afford the Petitioners relief with regards to penalties and delinquencies.

⁵ *Whetzel* cited Ind. Code § 6-1.1-30-11 which has since been repealed, but is now in effect in substantially similar language in Ind. Code § 6-1.5-4-1(a).

CONCLUSION

29. The Board lacks jurisdiction to review the Petitioners' claim that its taxes were improperly calculated, resulting in penalties and delinquencies.

The Indiana Board of Tax Review issues the Final Determination of the above captioned matter on the date written above.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.